



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CEPR-ZA (715)


15 MAY 2002

MEMORANDUM FOR COMMANDER/DIRECTORS, ALL USACE COMMANDS,
ATTN: DIRECTOR/CHIEFS OF CONTRACTING

SUBJECT: PARC Instruction Letter 2002-11, Clarification on the use of FAR Clause 52.226-1 – Utilization of Indian Organizations and Indian-Owned Economic Enterprises (JUN 2000) and DFARS Clause 252.226-7001 – Utilization of Indian Organizations and Indian-Owned Economic Enterprises – DOD Contracts (SEP 2001)

1. This PARC Instruction Letter 2002-11 is issued to clarify and provide guidance on the two clauses in subject line.
2. The concerns of one of our USACE organization were brought to my attention on the above subject. As a result of inquiry into the intent of the regulations, I ascertained that USACE should be using the DFARS clause, not the FAR clause. FAR 26.104 currently only directs "Civilian agencies" to use FAR Clause 52.226-1. As such, USACE can not use this clause. Our Military Civil Works programs are under DOD. Prior language pertaining to DOD was eliminated in concert with the DAR Council modifying the DFARS by adding Clause 252.226-7001, which is specific to DOD and is somewhat different from the FAR clause. Since reference to DOD was specifically eliminated from FAR 26.104 and a more specific DOD clause was added, I conclude that it was intended for DOD agencies to use the DOD clause as opposed to the FAR clause.
2. The POC for this PIL is Sylvia J. Moody, CEPR-P, 202-761-4700, e-mail: sylvia.j.moody@hq02.usace.army.mil.

FOR THE COMMANDER:


BUNNATINE H. GREENHOUSE
Principal Assistant Responsible
for Contracting